

Department of State

§ 122.1

NOTE TO ITEM 16

The modelling includes in particular the aerodynamic and thermodynamic analysis of the system.

ITEM 17—CATEGORY II

Materials, devices, and specially designed software for reduced observables such as radar reflectivity, ultraviolet/infrared signatures on acoustic signatures (*i.e.*, stealth technology), for applications usable for the systems in Item 1 or Item 2 (see § 121.1, Category XIII (e) and (k)), for example:

(a) Structural material and coatings specially designed for reduced radar reflectivity;

(b) Coatings, including paints, specially designed for reduced or tailored reflectivity or emissivity in the microwave, infrared or ultraviolet spectra, except when specially used for thermal control of satellites.

(c) Specially designed software or databases for analysis of signature reduction.

(d) Specially designed radar cross section measurement systems (see § 121.1, Category XI(a)(3)).

ITEM 18—CATEGORY II

Devices for use in protecting rocket systems and unmanned air vehicles against nuclear effects (e.g. Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects), and usable for the systems in Item 1, as follows (see § 121.1, Category IV (c) and (h)):

(a) “Radiation Hardened” “microcircuits” and detectors (see § 121.1, Category XI(c)(3) Note: This commodity has been formally proposed for movement to category XV(e)(2) in the near future).

(b) Radomes designed to withstand a combined thermal shock greater than 1000 cal/sq cm accompanied by a peak over pressure of greater than 50 kPa (7 pounds per square inch) (see § 121.1, Category IV(h)).

NOTE TO ITEM 18(a)

A detector is defined as a mechanical, electrical, optical or chemical device that automatically identifies and records, or registers a stimulus such as an environmental change in pressure or temperature, an electrical or electromagnetic signal or radiation from a radioactive material. The following pages were removed from the final ITAR for replacement by DDTC’s updated version § 6(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(1)), as amended. In accordance with this provision, the list of MTCR Annex items shall constitute all items on the U.S. Munitions List in § 121.16.

[58 FR 39287, July 22, 1993, as amended at 71 FR 20539, Apr. 21, 2006]

PART 122—REGISTRATION OF MANUFACTURERS AND EXPORTERS

Sec.

122.1 Registration requirements.

122.2 Submission of registration statement.

122.3 Registration fees.

122.4 Notification of changes in information furnished by registrants.

122.5 Maintenance of records by registrants.

AUTHORITY: Sections 2 and 38, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778); 22 U.S.C. 2651a; E.O. 13637, 78 FR 16129.

SOURCE: 58 FR 39298, July 22, 1993, unless otherwise noted.

§ 122.1 Registration requirements.

(a) Any person who engages in the United States in the business of manufacturing or exporting or temporarily importing defense articles, or furnishing defense services, is required to register with the Directorate of Defense Trade Controls under § 122.2. For the purpose of this subchapter, engaging in such a business requires only one occasion of manufacturing or exporting or temporarily importing a defense article or furnishing a defense service. A manufacturer who does not engage in exporting must nevertheless register. (See part 129 of this subchapter for requirements for registration of persons who engage in brokering activities.)

(b) *Exemptions.* The registration requirements of paragraph (a) of this section do not apply to:

(1) Officers and employees of the U.S. Government acting in an official capacity;

(2) Persons whose pertinent business activity is confined to the production of unclassified technical data only;

(3) Persons all of whose manufacturing and export activities are licensed under the Atomic Energy Act of 1954, as amended; or

(4) Persons who engage in the fabrication of articles solely for experimental or scientific purposes, including research and development.

NOTE TO PARAGRAPH (b): Persons who qualify for the exemptions in paragraphs (b)(2) or (b)(4) of this section remain subject to the requirements for licenses or other approvals for exports of defense articles and defense services and may not receive an export license or approval unless registered under § 122.2.

(c) *Purpose.* Registration is primarily a means to provide the U.S. Government with necessary information on who is involved in certain manufacturing and exporting activities. Registration does not confer any export rights or privileges. It is generally a precondition to the issuance of any license or other approval under this subchapter, unless an exception is granted by the Directorate of Defense Trade Controls.

[78 FR 52686, Aug. 26, 2013]

§ 122.2 Submission of registration statement.

(a) *General.* An intended registrant must submit a Statement of Registration (Department of State form DS-2032) to the Office of Defense Trade Controls Compliance by following the submission guidelines available on the Directorate of Defense Trade Controls Web site at www.pmddtc.state.gov. The Statement of Registration must be signed by a U.S. person senior officer (e.g., chief executive officer, president, secretary, partner, member, treasurer, general counsel) who has been empowered by the intended registrant to sign such documents. The Statement of Registration may include subsidiaries and affiliates when more than 50 percent of the voting securities are owned by the registrant or the subsidiaries and affiliates are otherwise controlled by the registrant (*see* § 120.40 of this subchapter). The intended registrant also shall submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the U.S. The Directorate of Defense Trade Controls will notify the registrant if the Statement of Registration is incomplete either by notifying the registrant of what information is required or through the return of the entire registration package. Registrants may not establish new entities for the purpose of reducing registration fees.

(b) *Statement of Registration Certification.* The Statement of Registration of the intended registrant shall include a certification by an authorized senior officer of the following:

(1) Whether the intended registrant or its parent, subsidiary, or other affiliate listed in the Statement of Reg-

istration, or any of its chief executive officers, presidents, vice presidents, secretaries, partners, members, other senior officers or officials (e.g., comptroller, treasurer, general counsel), or any member of the board of directors of the intended registrant, or of any parent, subsidiary, or other affiliate listed in the Statement of Registration:

(i) Has ever been indicted or otherwise charged (e.g., charged by criminal information in lieu of indictment) for or has been convicted of violating any U.S. criminal statutes enumerated in § 120.27 of this subchapter or violating a foreign criminal law on exportation of defense articles where conviction of such law carries a minimum term of imprisonment of greater than 1 year; or

(ii) Is ineligible to contract with, or to receive a license or other approval to import defense articles or defense services from, or to receive an export license or other approval from, any agency of the U.S. Government; and

(2) Whether the intended registrant is foreign owned or foreign controlled (*see* § 120.37 of this subchapter). If the intended registrant is foreign owned or foreign controlled, the certification shall include an explanation of such ownership or control, including the identities of the foreign person or persons who ultimately own or control the registrant. This requirement applies to a registrant who is a U.S. person and is owned or controlled by a foreign person. It also applies to a registrant who is a foreign person and is owned or controlled by a foreign person from the same country or a foreign person from another country.

[76 FR 45197, July 28, 2011, as amended at 76 FR 76036, Dec. 6, 2011; 78 FR 52686, Aug. 26, 2013]

§ 122.3 Registration fees.

(a) *Frequency of registration and fee.* A person who is required to register must do so on an annual basis by submitting a completed Statement of Registration (form DS-2032) and payment of a fee following the payment guidelines available on the Directorate of Defense Trade Controls Web site at www.pmddtc.state.gov. For those renewing a registration, notice of the fee due for the next year's registration will be